



Express Mail No. EV156914483US  
Attorney Docket No. 5437.06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
John A. Doherty and Charles A. Kalbfleisch	
Application No.:	09/862,652
Filed:	May 21, 2001
For:	VEHICLE MOUNTED TRAVEL SURFACE AND WEATHER CONDITION MONITORING SYSTEM
Examiner: Steven J. Ganey	
Group Art Unit: 3752	

**CERTIFICATE OF MAILING BY EXPRESS MAIL**

MAIL STOP PETITION  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned hereby certifies that the enclosed

1. Certificate of Mailing by Express Mail;
2. Letter Enclosing Rescission of Previous Non-Publication Request and Petition;
3. Copy of Rescission of Previous Nonpublication Request (35 U.S.C. 122(b)(2)(B)(ii)) and, If Applicable, Notice of Foreign Filing (35 U.S.C. 122(b)(2)(B)(iii));
4. Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f));
5. Check in the amount of \$650.00; and
6. return card,

relating to the above application, were deposited as "Express Mail," Mailing Label No. EV156914483US with the United States Postal Service, addressed to MAIL STOP PETITION, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450, on this 29th day of July 2003.

July 29, 2003

Kristi Murray  
Mailer

July 29, 2003

Kristi Murray  
Printed Name of Mailer  
DORSEY & WHITNEY LLP  
USPTO Customer No. 20686

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Express Mail No. EV156914483US  
Attorney Docket No. 5437.06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  John A. Doherty and Charles A. Kalbfleisch  Application No.: 09/862,652  Filed: May 21, 2001  For: VEHICLE MOUNTED TRAVEL SURFACE AND WEATHER CONDITION MONITORING SYSTEM	   Examiner: Steven J. Ganey  Group Art Unit: 3752
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**LETTER ENCLOSING RESCISSION OF PREVIOUS  
NON-PUBLICATION REQUEST AND PETITION**

MAIL STOP PETITION  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This letter and the attachments are being sent to both Mail Stop Petition and Mail Stop PG PUB.

Enclosed herewith please find a Rescission of Previous Non-Publication Request and a Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing under 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.137(f). The above-referenced patent application was originally filed as a continuation application of parent United States application no. 09/286,809. The continuation application was filed with a non-publication request and certification.

The certification provides "that the invention disclosed in the attached application has not and will not be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing." In the above certification it is believed that the use of "invention" refers to the claims of the subject application. The claims in the above patent application were not originally submitted in a counterpart foreign application. Moreover, at the time of filing the present application, there was no intent to file the claims in a

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foreign application. However, after some time, the claims were submitted in a counterpart foreign application. As such, it is believed that the original certification was proper.

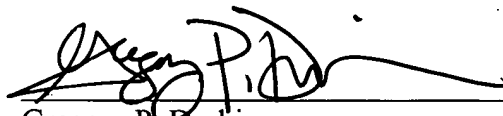
A Canadian application claiming priority to the parent application was filed on November 18, 1997. The Canadian application has basically the same specification and drawings as the above-referenced patent application. However, the Canadian application did not include the same claims as the above patent application when it was originally filed. On August 20, 2002 (after the filing of this application), the claims pending in the present application were filed in the Canadian application. As such, as indicated above, it is believed that the original certification was proper as the claims in this patent were not pending in a counterpart foreign application at the time of filing. However, it is believed that the present application may have been abandoned 45 days after the claims were filed in Canada, and a rescission of non-publication was not filed.

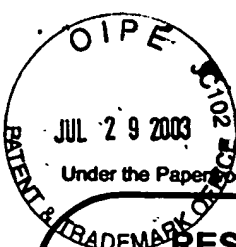
Analysis by the undersigned of the MPEP, Section 37 of the Code of Federal Regulations, and Title 37 of the Code of Federal Laws, does not yield, with certainty, the answer to whether the earlier filed Canadian application, which did not include the same claims as the above patent but was subsequently amended to include the claims, is the type of disclosure that would cause the application to become abandoned. As such, the enclosed Rescission of Previous Nonpublication Request and Petition to Revive under 35 U.S.C. § 122(b)(2)(B)(iii) is submitted in the event the application was abandoned due to the filing activities in Canada.

Please contact the undersigned at 303-629-3427 if you have any questions.

Respectfully submitted,

Date: July 29, 2003

  
\_\_\_\_\_  
Gregory P. Durbin  
Attorney Registration No. 42,503  
Dorsey & Whitney LLP  
Customer No. 20686



**RESCISSION OF PREVIOUS  
NONPUBLICATION REQUEST**  
(35 U.S.C. 122(b)(2)(B)(II))  
**AND, IF APPLICABLE,  
NOTICE OF FOREIGN FILING**  
(35 U.S.C. 122(b)(2)(B)(III))

Send completed form to:  
**Mail Stop PG Pub**  
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P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX: (703) 305-8568

Application Number	09/862,652
Filing Date	May 21, 2001
First Named Inventor	John A. Doherty
Title	Vehicle Mounted Travel Surface and Weather Condition Monitoring System
Atty Docket Number	5437.06
Group Art Unit	3752
Examiner	Steven J. Ganey

A request that the above-identified application not be published under 35 U.S.C. 122(b) (nonpublication request) was included with the above-identified application on filing pursuant to 35 U.S.C. 122(b)(2)(B)(i). I hereby rescind the previous nonpublication request.

If a notice of foreign or international filing is or will be required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c), I hereby provide such notice. This notice is being provided no later than forty-five (45) days after the date of such foreign or international filing.

*If a notice of subsequent foreign or international filing required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) was not filed within forty-five (45) days after the date of filing of the foreign or international application, the application is ABANDONED, and a petition to revive under 37 CFR 1.137(b) is required. See 37 CFR 1.137(f).*

July 29, 2003

Date

Signature

303-629-3427 (direct)  
Telephone Number

Gregory P. Durbin, # 42,503

Typed or printed name

**This request must be signed in compliance with 37 CFR 1.33(b).**

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop PG Pub, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile ((703) 305-8568) transmitted to the U.S. Patent and Trademark Office on the date shown below.

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Date

**Burden Hour Statement:** This collection of information is required by 37 CFR 1.213(b). The information is used by the public to rescind a previously filed request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that rescission). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PG Pub, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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FROM: **Gregory P. Durbin** FAX #: **(303) 629-3450**  
TELEPHONE #: **(303) 629-3427** EMAIL: **durbin.greg@dorsey.com**

**COMMENTS:****In re Application of:****John A. Doherty and Charles A. Kalbfleisch****Application No.: 09/862,652, filed May 21, 2001****For: VEHICLE MOUNTED TRAVEL SURFACE AND  
WEATHER CONDITION MONITORING SYSTEM****The following are attached:**

1. Certificate of Facsimile Transmission;
2. Letter Enclosing Rescission of Previous Non-Publication Request and Petition;
3. Rescission of Previous Nonpublication Request (35 U.S.C. 122(b)(2)(B)(ii)) and, If Applicable, Notice of Foreign Filing (35 U.S.C. 122(b)(2)(B)(iii)); and
4. Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f))

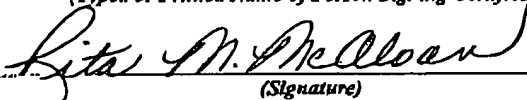
**Examiner: Steven J. Ganey****Group Art Unit: 3752****RECEIVED****AUG 01 2003****OFFICE OF PETITIONS**

  
Originator's Signature

Original will be sent via: ☐ Mail ☐ E-Mail ☐ Messenger ☐ Air Courier ☒ Will not be sent

PLEASE CONTACT GREGORY P. DURBIN AT (303) 629-3427 IF THIS TRANSMISSION IS INCOMPLETE OR CANNOT BE READ.

Reference # 3048/456909-20

<b>CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)</b>			<b>Docket No.</b>
Applicant(s): <b>John A. Doherty et al.</b>			<b>5437.06</b>
<b>Serial No.</b> 09/862,652	<b>Filing Date</b> May 21, 2001	<b>Examiner</b> Steven J. Ganey	<b>Group Art Unit</b> 3752
Invention: <b>VEHICLE MOUNTED TRAVEL SURFACE AND WEATHER CONDITION MONITORING SYSTEM</b>			
<p>I hereby certify that this _____ <b>Certificate and the documents described in the Fax Cover Sheet</b> _____ (Identify type of correspondence) is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. <b>703-305-8568</b>)</p> <p>on <b>July 29, 2003</b> (Date)</p> <p style="text-align: center;"><b>Rita M. McAloon</b> (Typed or Printed Name of Person Signing Certificate)  (Signature)</p> <p style="text-align: center;">Note: Each paper must have its own certificate of mailing.</p> <p style="text-align: right;"><b>RECEIVED</b> AUG 01 2003 OFFICE OF PETITIONS</p>			

Express Mail No. EV156914483US  
Attorney Docket No. 5437.06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
John A. Doherty and Charles A. Kalbfleisch	
Application No.:	09/862,652
Filed:	May 21, 2001
For:	VEHICLE MOUNTED TRAVEL SURFACE AND WEATHER CONDITION MONITORING SYSTEM
Examiner: Steven J. Ganey	
Group Art Unit: 3752	

LETTER ENCLOSING RESCISSION OF PREVIOUS  
NON-PUBLICATION REQUEST AND PETITION

MAIL STOP PETITION  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This letter and the attachments are being sent to both Mail Stop Petition and Mail Stop PGPUB.

Enclosed herewith please find a Rescission of Previous Non-Publication Request and a Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing under 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.137(f). The above-referenced patent application was originally filed as a continuation application of parent United States application no. 09/286,809. The continuation application was filed with a non-publication request and certification.

The certification provides "that the invention disclosed in the attached application has not and will not be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing." In the above certification it is believed that the use of "invention" refers to the claims of the subject application. The claims in the above patent application were not originally submitted in a counterpart foreign application. Moreover, at the time of filing the present application, there was no intent to file the claims in a

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foreign application. However, after some time, the claims were submitted in a counterpart foreign application. As such, it is believed that the original certification was proper.

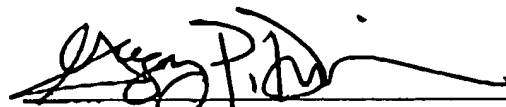
A Canadian application claiming priority to the parent application was filed on November 18, 1997. (The Canadian application has basically the same specification and drawings as the above-referenced patent application.) However, the Canadian application did not include the same claims as the above patent application when it was originally filed. On August 20, 2002 (after the filing of this application), the claims pending in the present application were filed in the Canadian application. As such, as indicated above, it is believed that the original certification was proper as the claims in this patent were not pending in a counterpart foreign application at the time of filing. However, it is believed that the present application may have been abandoned 45 days after the claims were filed in Canada, and a rescission of non-publication was not filed.

Analysis by the undersigned of the MPEP, Section 37 of the Code of Federal Regulations, and Title 37 of the Code of Federal Laws, does not yield, with certainty, the answer to whether the earlier filed Canadian application, which did not include the same claims as the above patent but was subsequently amended to include the claims, is the type of disclosure that would cause the application to become abandoned. As such, the enclosed Rescission of Previous Nonpublication Request and Petition to Revive under 35 U.S.C. § 122(b)(2)(B)(iii) is submitted in the event the application was abandoned due to the filing activities in Canada.

Please contact the undersigned at 303-629-3427 if you have any questions.

Respectfully submitted,

Date: July 29, 2003



Gregory P. Durbin  
Attorney Registration No. 42,503  
Dorsey & Whitney LLP  
Customer No. 20686

PTO/SB/36 (05-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**RESCISSION OF PREVIOUS  
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**AND, IF APPLICABLE,  
NOTICE OF FOREIGN FILING**  
(35 U.S.C. 122(b)(2)(B)(iii))

Send completed form to:  
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Alexandria, VA 22313-1450  
FAX: (703) 305-8568

Application Number	09/862,652
Filing Date	May 21, 2001
First Named Inventor	John A. Doherty
Title	Vehicle Mounted Travel Surface and Weather Condition Monitoring System
Atty Docket Number	5437.06
Group Art Unit	3752
Examiner	Steven J. Ganey

A request that the above-identified application not be published under 35 U.S.C. 122(b) (nonpublication request) was included with the above-identified application on filing pursuant to 35 U.S.C. 122(b)(2)(B)(i). I hereby rescind the previous nonpublication request.

If a notice of foreign or international filing is or will be required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c), I hereby provide such notice. This notice is being provided no later than forty-five (45) days after the date of such foreign or international filing.

*If a notice of subsequent foreign or international filing required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) was not filed within forty-five (45) days after the date of filing of the foreign or international application, the application is ABANDONED, and a petition to revive under 37 CFR 1.137(b) is required. See 37 CFR 1.137(f).*

July 29, 2003

Date



Signature

303-629-3427 (direct)  
Telephone Number

Gregory P. Durbin, # 42,503

Typed or printed name

**This request must be signed in compliance with 37 CFR 1.33(b).**

If information or assistance is needed in completing this form, please contact the Pre-Grant Publication Division at (703) 605-4283 or by e-mail at PGPub@USPTO.gov.

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop PG Pub, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile ((703) 305-8568) transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)

Signature

Date

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(b). The information is used by the public to rescind a previously filed request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that rescission). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PG Pub, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/64a (05-03)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL  
FILING (37 CFR 1.137(f))**

Docket Number (Optional)

5437.06

First named inventor: **John A. Doherty**Application No.: **09/862,652**Art Unit: **3752**Filed: **May 21, 2001**Examiner: **Steven J. Ganey**Title: **VEHICLE MOUNTED TRAVEL SURFACE  
AND WEATHER CONDITION MONITORING SYSTEM**

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.

The above-identified application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION  
UNDER 37 CFR 1.137(b)

## 1. Petition fee

☒ Small entity-fee \$ 650.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

## 2. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after filing. The filing date of the subsequently-filed foreign or international application is November 18, 1997; Claims in accordance with present U.S. application August 20, 2002.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**STATEMENT:** The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

[NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

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**July 29, 2003**

Date \_\_\_\_\_

*[Signature]*

**Signature**

**Telephone**

Number: 303-629-3427 (direct)

**Gregory P. Durbin, # 42,503**

**Typed or printed name**

**Dorsey & Whitney LLP**

### Address

**Republic Plaza Building, Suite 4700**

**370 Seventeenth Street**

**Denver, CO 80202-5647**

**Customer No. 20686**

Enclosures: ☒ Fee Payment

**Additional sheets containing statements establishing unintentional delay**

☐ Other: \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

**I hereby certify that this correspondence is being:**

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

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